

**DG 05-049**

**ENERGYNORTH NATURAL GAS, INC. D/B/A  
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

**2005 Summer Cost of Gas**

**Order Approving the Cost of Gas**

**ORDER NO. 24,462**

**April 29, 2005**

**APPEARANCES:** McLane, Graf, Raulerson, and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Office of the Consumer Advocate by Kenneth E. Traum and Rorie E.P. Hollenberg, Esq. on behalf of residential utility consumers; and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission

**I. PROCEDURAL HISTORY**

On March 17, 2005, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan or the Company), a public utility engaged in the business of distributing natural gas in southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the 2005 Summer Season. KeySpan's filing included the direct testimony and supporting attachments of Ann E. Leary, Manager of Rates, and Theodore E. Poe, Manager of Energy Planning. On March 18, 2005, KeySpan filed with the Commission a Motion for Protective Order and Confidential Treatment regarding the 2005 Summer Season COG filing. On March 22, 2005, the Commission issued an Order of Notice scheduling a hearing for April 14, 2005.

On March 30, 2005, the Office of the Consumer Advocate (OCA) filed a notice of intent to participate in this docket on behalf of residential utility consumers consistent with RSA 363:28. There were no other intervenors in this docket. On April 13, 2005, KeySpan filed

revised COG rates for the 2005 Summer Season and, on April 14, 2005, a duly noticed hearing on the merits was held at the Commission. On April 19, 2005, KeySpan filed with the Commission its response to a record request made at hearing and reserved as Exhibit 3.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. KeySpan**

KeySpan witnesses Ann E. Leary and Theodore E. Poe testified as to the following issues: 1) calculation of the firm sales COG rate and the impact on customer bills; 2) factors contributing to the increased rate; and 3) changes in the asset management agreement (AMA).

#### **1. Calculation and Impact of the Firm Sales COG Rate**

KeySpan's proposed 2005 Summer COG average cost of gas rate (residential firm sales rate) is \$0.9134 per therm. The rate reflects anticipated direct gas costs, indirect gas costs and various adjustments. Anticipated direct gas costs total \$23,514,605 and are comprised of commodity and transportation charges, adjusted for a prior period over-collection of \$87,960 and interest of \$19,565. Anticipated indirect gas costs total \$452,940, consisting of working capital, bad debt and overhead charges. The gas costs to be recovered (anticipated direct and indirect costs and adjustments based on the prior period reconciliation) total \$23,899,150. Such gas costs are divided by projected sales of 26,163,477 therms, based on 2004 summer normalized sales and projected sales growth, to arrive at the average cost of gas rate.

KeySpan's proposed 2005 Summer Season COG residential rate of \$0.9134 per therm is an increase of \$0.1560 per therm from the 2004 Summer Season weighted average firm sales COG rate of \$0.7574 per therm. The impact of the proposed firm sales COG rate is an

increase in the typical residential heating customer's summer gas costs of \$49, or 13%, compared to last summer.

## **2. Reasons for the Increased Summer Season 2005 COG Rate**

KeySpan testified that the primary factor responsible for the increase in the proposed COG rate is an increase in the projected commodity gas costs of approximately \$4 million. The natural gas prices as quoted on the New York Mercantile Exchange (NYMEX) are significantly higher than they were in the 2004 Summer Season COG filing.

Also contributing to the rate increase is a reduction in the prior period adjustment arising from the reconciliation of actual gas costs and revenues. Last summer's COG was offset by a prior period over-collection of approximately \$800,000, whereas this summer's rate includes a prior period over-collection of less than \$100,000. Thus, the cumulative impact on gas costs of the current over-collection comparing last summer to this summer is a difference of approximately \$700,000.

## **3. Changes in the AMA**

KeySpan recently negotiated an agreement in principle with its asset manager, Merrill Lynch Commodities, Inc. (successor to Entergy Koch Trading, LP), amending the AMA for the final contract period of April 1, 2005 through March 31, 2006. The amendment provides KeySpan greater flexibility in its order of supply dispatch and will enable KeySpan to fully utilize its remaining DOMAC FCS supply over the 2005 Summer Season. Prior to the amendment, if KeySpan were unable to fully utilize those supplies, they were released to the asset manager and profits were shared between the asset manager and KeySpan. Although an amended contract had not yet been executed as of the date of the hearing, the asset manager has consented to KeySpan's operating under the terms of the proposed amendment. As of the date of

the revised filing, the DOMAC FCS supplies were priced well below the supplies KeySpan would otherwise be paying for.

#### **4. Motion for Protective Order and Confidential Treatment**

KeySpan seeks to protect from public disclosure certain information relating to the identity of specific gas suppliers and commodity and demand charges<sup>1</sup> contained in the following schedules provided with KeySpan's COG filing:

Schedule 1	Summary of Supply and Demand Forecast
Schedule 2	Contracts Ranked on a per Unit Cost Basis
Schedule 5	Detail of Demand Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 6	Detail of Commodity Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 7	NYMEX Futures @ Henry Hub, Development of Commodity Rates by Content
Schedule 11	Normal and Design Year Volumes and Capacity Utilization
Schedule 12	Agreements for Gas Supply and Transportation
Schedule 13	2004 Summer Cost of Gas Reconciliation

In support of the Motion for Protective Order and Confidential Treatment, KeySpan asserted that the information constitutes trade secrets of KeySpan and that KeySpan does not share this information with any person outside of the Company or its representatives; that release of the information would place KeySpan at a competitive disadvantage; and that the Commission has granted confidential treatment to similar information in previous cost of gas dockets.

#### **5. Response to Record Request**

KeySpan provided a response to a record request made by Staff regarding the steps the Company is taking to examine the level of indirect gas costs that are included in the COG rate. The Company stated that it intends to discuss with Staff the scope of the analysis and

---

<sup>1</sup> Certain volumes are also redacted.

related issues and complete any cost of service study arising from such discussions in time for use in setting the COG rate for the 2005-2006 Winter Season.

### **B. OCA**

The OCA expressed concern with the increase in gas rates, but recommended approval of the proposed COG rates as the increase is reflective of current market conditions.

### **C. Staff**

Staff stated that at the hearing on the 2004 Summer Season COG, it had reserved its right to recommend to the Company and the Commission that adjustments be made to the 2003 Summer Season reconciliation and that an appropriate rate-related resolution be implemented, based upon an ongoing investigation into the proper dispatch of KeySpan's DOMAC FCS supplies. *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England Commission*, Order No. 24,317 (April 30, 2004), approving KeySpan's 2004 Summer Season COG, directed the Staff to report its findings and recommendations to the Commission upon completion of its investigation.

Staff noted that there are currently open dockets that specifically address that issue as well as other gas supply and planning issues, i.e., Dockets DG 04-133 and DG 04-175. An outside consultant, Liberty Consulting Group, was hired and has issued a draft report to the parties and the parties are currently in the process of setting a procedural schedule to discuss the report. Staff expressed its expectation that a final report will be filed with the Commission and a hearing on the matter conducted prior to the 2005-2006 Winter Season COG.

Staff stated that it will report its findings and recommendations to the Commission on the 2003 and 2004 Summer Season gas costs related to the DOMAC FCS dispatch in the above-mentioned dockets. Staff further stated that the dispatch of the DOMAC

FCS supplies is not at issue in the 2005 Summer Season COG as the recently negotiated amendment to the AMA will allow KeySpan to fully utilize those supplies. Finally, Staff recommended approval of the proposed COG rates.

### **III. COMMISSION ANALYSIS**

#### **1. 2005 Summer Season Cost of Gas Rate**

After review of the record in this docket, we find that KeySpan's proposed COG rates will result in just and reasonable rates. The demand forecast and supply portfolio are similar to prior years and the actual results of the Summer Season will be reviewed both during the summer, through monthly reporting, and following the period, through the final reconciliation. The 2006 Summer Season COG proceeding will provide a forum to address any supply related issues that may arise during the 2005 Summer Season COG period. Issues related to the 2003 and 2004 Summer Season will be addressed in Docket No. DG 04-175.

#### **2. Motion for Protective Order and Confidential Treatment**

N.H. Code Admin. Rules Puc 204.06 provides that "the Commission shall grant confidentiality upon its finding that the documents sought to be made confidential are within the exemptions permitted by RSA 91-A:5,IV, or other provisions of law based on the information submitted. . . ." RSA 91-A:5, IV provides an exception to the general rule of public disclosure for "confidential, commercial or financial information." Interpreting this provision, the New Hampshire Supreme Court has instructed agencies of state government to construe this exemption narrowly, applying a balancing test in order to determine whether "the asserted private, confidential, commercial or financial interest" is outweighed by "the public's interest in disclosure." *Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540, 552-53 (1997). Based on KeySpan's representations and the Commission's previous treatment of

similar gas supply, commodity, and demand information, we find that the benefits to the Company of non-disclosure in this case outweigh the benefits to the public of disclosure. The Commission finds that the information contained in the COG filing is exempt from public disclosure pursuant to RSA 91-A:5,IV and Puc 204.06. Our findings and ruling on this issue are subject to the on-going authority of the Commission, on its own motion, or on the motion of Staff, any party, or any member of the public, to reconsider these determinations should circumstances so warrant.

**Based upon the foregoing, it is hereby**

**ORDERED**, that KeySpan's firm sales Summer Season COG per therm rates for the period May 1, 2005 through October 31, 2005, are **APPROVED**, effective for service rendered on or after May 1, 2005 as follows:

	<b>Cost of Gas</b>	<b>Minimum COG</b>	<b>Maximum COG</b>
<b>Residential</b>	\$0.9134	\$0.7307	\$1.0961
<b>C&amp;I, Low Winter Use</b>	\$0.8901	\$0.7121	\$1.0681
<b>C&amp;I, High Winter Use</b>	\$0.9301	\$0.7441	\$1.1161

**FURTHER ORDERED**, that KeySpan may, without further Commission action, adjust the COG rates upward or downward monthly based on KeySpan's calculation of the projected over or under-collection for the period, subject to the minimum and maximum rates as set forth above; and it is

**FURTHER ORDERED**, that the over or under-collection shall accrue interest at the Prime Rate reported in the Wall Street Journal. The rate is to be adjusted each quarter using the rate reported on the first date of the month preceding the first month of the quarter; and it is

**FURTHER ORDERED**, that KeySpan provide the Commission with its monthly calculation of the projected over or under-collection, along with the resulting revised COG rate for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 84 - Calculation of Cost of Gas Adjustment for firm sales and revised firm rate schedules if KeySpan elects to adjust the COG rate, with revised tariff pages to be filed as required by N.H. Code Admin. Rules Puc 1603; and it is

**FURTHER ORDERED**, that KeySpan file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin. Rules Puc 1603; and it is

**FURTHER ORDERED**, that KeySpan's Motion for Protective Order and Confidential Treatment, described above, is GRANTED, subject to the on-going authority of the Commission, on its own motion, or on the motion of Staff, any party, or any member of the public, to reconsider these determinations should circumstances so warrant.



By order of the Public Utilities Commission of New Hampshire this twenty-ninth  
day of April, 2005.

---

Thomas B. Getz  
Chairman

---

Graham J. Morrison  
Commissioner

---

Michael D. Harrington  
Commissioner

Attested by:

---

Debra A. Howland  
Executive Director & Secretary